

In the Matter of)
)
Rural Call Completion) WC Docket No. 13-39

Sprint Corporation (“Sprint”) hereby respectfully submits its opposition to the Petition for Reconsideration (“PFR”) filed by NTCA – The Rural Broadband Association on June 11, 2018 in the above-captioned proceeding. In this petition, NTCA has asked that the Commission “reconsider its decision to not require covered providers to file their documented rural call completion monitoring procedures with the Commission.”¹ This petition should be denied because it is risky and burdensome; will not generate any public interest benefits; is unnecessary for the Commission’s oversight efforts; and is not supported by any new information.

1. Mandatory Filing of RCC Monitoring Procedures Will Not Generate Any Benefits but Will be Risky and Burdensome.

In the *RCC Second Report and Order*, the Commission specifically declined to require covered providers to file their documented monitoring procedures publicly because “such documentation in many cases is likely to reveal important technical, personnel, and commercial details about the covered provider’s network and business operations – so public disclosure would impose meaningful burdens.”² This is a

¹ PFR, p. 1.

² *Rural Call Completion, Second Report and Order and Third Further Notice of Proposed Rulemaking*, FCC 18-45, released April 17, 2018 (“*RCC Second Report and Order*”), para. 46, footnote omitted.

legitimate, serious risk. NTCA has stated that “it is difficult to imagine”³ what confidential or sensitive business information might be included in a covered carrier’s monitoring procedures (and indeed, a requirement to file this information may result in submission of very generic plans, which would obviously be of limited use as a compliance tool, as a means of protecting sensitive information and business operations). However, Sprint’s *internal* documented processes and procedures include a significant amount of sensitive material such as description of software enhancements we intend to use to monitor intermediate carriers, references to performance parameters to be captured and analyzed, and steps which Sprint representatives are to take in the event that a potential problem is identified. None of this is information which Sprint would want to publicly disclose.

Moreover, as the Commission has already found, there “is no countervailing benefit sufficient to warrant imposing this burden”⁴ of filing monitoring procedures as requested by NTCA. The mere filing of the procedures will not provide any insight into how well the covered carrier has implemented those procedures, or what intermediate carrier performance issues were identified or addressed. As discussed in section 2 below, the filing of RCC monitoring procedures with the FCC is not necessary to enable or ensure that the Commission can investigate alleged rural call completion problems or compliance with its RCC rules.

³ PFR, p. 8.

⁴ *RCC Second Report and Order*, para. 46.

2. The Filing of RCC Monitoring Procedures Is Unnecessary for Purposes of Commission Oversight.

In its Petition, NTCA argues that by requiring covered providers to file their monitoring procedures “...even if not publicly available, the Commission would at least have access to the information necessary to determine whether a company has sufficient monitoring policies in place and whether the company follows them.”⁵ This argument assumes that the Commission will be unable to engage in regulatory RCC oversight unless covered providers file their monitoring procedures. Such premise is clearly incorrect. The Commission has multiple tools for evaluating carrier compliance with existing rural call completion rules, including review and investigation of consumer and rural LEC complaints; audits; and subpoenas/letters of inquiry/notices of apparent liability where there is a reasonable basis to suspect a violation of the rules. Depending on the nature of the review, the Commission could readily obtain a copy of a covered carrier’s monitoring procedures without a mandatory, industry-wide filing requirement. As the Commission has explicitly stated⁶

We are able to obtain information on covered providers’ monitoring practices in an investigation, so we do not need to impose a public disclosure requirement to effectively carry out our responsibilities. Given the variance among covered providers’ networks and operations and the flexibility our monitoring rule provides, we see little value to covered providers “know[ing] what individual carriers’ procedures are and hav[ing] benchmarks against which subsequent performance can be measured” – each covered provider is able to adopt its own approach.

Moreover, while the Commission clearly has the means to evaluate carrier compliance, the filing of monitoring procedures in and of itself provides little insight into

⁵ PRF, p. 9.

⁶ *RCC Second Report and Order*, para. 46, footnotes omitted.

covered carriers' adherence to those procedures, particularly to "any party"⁷ that might be interested. The Commission has eliminated the requirement that carriers file reports showing call completion rates by rural OCN and for non-rural overall, and NTCA has explicitly stated that it is not challenging elimination of that rule.⁸ It would be inappropriate to attempt to slip in a new reporting requirement under the guise of evaluating compliance with filed RCC monitoring procedures.

Finally, NTCA is mistaken that the remaining rural call completion rules are "mere affirmations and reminders" with which covered carriers are only "expected" to comply.⁹ Compliance with the rules is mandatory, not optional. Section 64.2111 requires ("shall" being the language of command) covered carriers to "monitor the intermediate provider's performance in the completion of call attempts to rural telephone companies..." and "take steps that are reasonably calculated to correct any identified performance problem...." The *RCC Second Report and Order* also makes it abundantly clear that the intermediate provider monitoring obligations are mandatory, not optional.¹⁰ There is no reason to suspect (and NTCA offers no such evidence) that covered carriers will so flagrantly disregard the Commission's rules as to necessitate an industry-wide mandatory filing requirement.

⁷ PFR, p. 7.

⁸ PFR, p. 5.

⁹ See, e.g., PFR, p. 9 ("[i]t is doubtful that a mere expectation that covered providers will write down rural call completion monitoring procedures – without any visibility into whether they exist, what they are, and whether they are followed - will lead to meaningful monitoring action on the part of some originating providers").

¹⁰ See, e.g., *RCC Second Report and Order* at para. 12 ("we adopt a new rule requiring "covered providers" ... to monitor the performance of the "intermediate carriers" to which they hand off calls"); para. 17 (describing "required prospective monitoring"); para. 23 ("We also require covered providers to retrospectively investigate any rural call completion problems that arise"); para. 34 ("We require covered providers to *directly*

3. NTCA's Petition Does Not Include New Information to Justify the Requested Relief.

Section 1.429(b) of the Commission's Rules (47 C.F.R. §1.429(b)) specifies that a petition for reconsideration must be based "on facts or arguments which have not previously been presented to the Commission...." NTCA's petition for reconsideration does not meet this test. The relief requested in instant PFR simply mirrors NTCA's recommendation submitted in April 2018,¹¹ and in its comments filed in the record below – a recommendation which the Commission has previously considered and explicitly declined to adopt.¹²

NTCA has not provided any new facts or information to support its PFR, and instead merely reiterates arguments which it previously made. For example, NTCA previously stated that the Commission should retain strict rural call completion rules because although "[t]he Commission has repeatedly made it clear that providers have an obligation to monitor their networks, including the use of their intermediate providers, ...the mere "obligation" has never worked."¹³ Here again, NTCA asserts that "[m]ere affirmations and reminders to originating providers of the Commission's expectations that carriers will complete calls has historically failed to provide the necessary incentives

monitor the performance of intermediate providers with which they have a contractual relationship...").

¹¹ See *ex parte* letter from J. Canfield, NTCA, to M. Dortch, FCC, dated April 5, 2018, pp. 2-3, WC Docket No. 13-39.

¹² *RCC Second Report and Order*, para. 46, footnote omitted ("We further decline to require covered providers to file their documented monitoring procedures publicly with the Commission, as NTCA suggests").

¹³ NTCA Comments filed in WC Docket No. 13-39, August 28, 2017, p. 7; see also, NTCA Reply Comments filed Sept. 25, 2017, p. 2 (compliance efforts that "required nothing but a promise to attempt to complete calls and keep an eye on vendors...did not work...").

for carriers to do so in all cases,”¹⁴ and requiring covered providers to file their RCC monitoring procedures with the Commission would “at least” give covered providers “some cause to live up to those procedures.”¹⁵

Because NTCA’s petition does not satisfy the minimum standard for grant of a request for reconsideration of a Commission order, the petition should be denied.

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NTCA’s request that the Commission reconsider its previous decision to not require covered carriers to file their monitoring procedures with the Commission imposes burdens with no offsetting benefits; is not necessary to ensure effective Commission oversight of rural call completion matters; and is unsupported by new facts or information. This petition for reconsideration should accordingly be denied.

Respectfully submitted,

SPRINT CORPORATION

/s/ Charles W. McKee

Charles W. McKee
Vice President, Government Affairs
Federal and State Regulatory

Norina T. Moy
Director, Government Affairs

900 Seventh St. NW, Suite 700
Washington, DC 20001
(703) 433-4503

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¹⁴ PFR, p. 3.

¹⁵ PFR, p. 7.